

EXHIBIT

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
(Pecos Division)

Energy Vault, Inc.,

Plaintiff,

v.

United Standard Electric LLC,

Defendant.

Civil Action No: 4:23-cv-00047

**DEFENDANT USE’S OBJECTIONS AND RESPONSES TO ENERGY VAULT’S FIRST
SET OF REQUESTS FOR PRODUCTION**

Defendant United Standard Electric, LLC (“USE”), by counsel, respectfully submits these objections and responses to the first set of requests for production of documents served by Plaintiff Energy Vault.

OBJECTIONS TO DEFINITIONS:

The definitions of “United Standard Electric” and “Defendant” are objected to as purporting to include and apply to persons and entities who are not parties to this litigation.

GENERAL OBJECTIONS:

Multiple claims and defenses have been pled. Therefore, Plaintiff has propounded an excessive number of requests for production. Plaintiff will need to specify which twenty-five requests it wants Defendant to respond to this month.

OBJECTIONS TO REQUESTS FOR DOCUMENTS

1. DOCUMENT REQUEST NO. 1:

All Communications between USE and Energy Vault concerning the Transaction or the Transaction Transformers.

OBJECTIONS:

Overly broad. Unduly Burdensome. Already in the possession of the Plaintiff.

RESPONSE:

- Bernardo
 - New Payment terms
 - RE: [EXTERNAL]RE: New Payment terms
 - RE Sustainability Data Request
- Carolina
 - W: [EXTERNAL]COT2201576 3010KVA AND 1250KVA
- Nancy
 - ACK - COT2201576R4 updated 112922
 - COT2201576R4 3MVA EV PADS LGE
 - Energy Vault PO#PO000778 _ USE COT2201576R4
 - Purchase Order_PO000778

2. DOCUMENT REQUEST NO. 2:

All Documents and Communications within USE or between USE and any Third Party related to the acceptance, terms, and negotiation of the Transaction.

OBJECTIONS:

Attorney-client privilege and litigation work product. “Third Party” is capitalized but is not defined, and is therefore vague and ambiguous.

RESPONSE:

- Bernardo
 - FW: [EXTERNAL]RE: St Gall XFRMS - Update / Logistics for 1803000212
 - RE: Energy Vault transformer testing and repair at St Gall
 - RE: [EXTERNAL]Aborted FAT Follow up and Path Forward
 - New Payment terms

- RE: [EXTERNAL]RE: New Payment terms
 - Re: United Standard Electric payments
 - United Standard Electric payments
- Carolina
 - EV – Downpayment
- Nancy
 - ACK - COT2201576R4 updated 112922
 - COT2201576R4 3MVA EV PADS LGE
 - Energy Vault PO#PO000778 _ USE COT2201576R4
 - Purchase Order_PO000778

3. DOCUMENT REQUEST NO. 3:

All Documents and Communications within USE or between USE and any Third Party related to the manufacturing process undertaken by USE to produce the Transaction Transformers.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of confidential business information (“CBI”) and trade secrets. “Third Party” is capitalized but is not defined, and is therefore vague and ambiguous.

RESPONSE:

- Bernardo
 - RE: [EXTERNAL]Aborted FAT Follow up and Path Forward
- Carolina
 - RE: Bushing Connection for Impulse Voltage Test
 - RE: Reoccurring Meeting with Energy Vault and USE/Atlantic

4. DOCUMENT REQUEST NO. 4:

All testing or inspection reports regarding the Transaction Transformers.

OBJECTIONS:

Calls for disclosure of CBI.

RESPONSE:

- Bernardo
 - FW: [EXTERNAL]Energy Vault Field Service
 - FW: [EXTERNAL]Updated report 09/06
 - FW: Test Summary 3010kva EV
 - Fwd: USE/Energy Vault - Daily Check-in
 - RE: Dissolve Gas Analysis (DGA)
 - Re: EV Updated Schedule / Notes from 8/16 Meeting
 - RE: EV Updated Schedule / Notes from 8/16 Meeting
 - RE: EV Updated Schedule / Notes from 8/17 Meeting
 - RE: EV/USE Touch Point
 - RE EVUSE Touch Point2
 - RE: [EXTERNAL]Aborted FAT Follow up and Path Forward
 - RE: [EXTERNAL]RE: Transformer Testing
 - RE: [EXTERNAL]RE: USE XFRM Quality Issues
 - RE EXTERNALRE USE XFRM Quality Issues 2
 - RE: [EXTERNAL]RV: test report 3010kva
 - RE: Gt. Gall Project - USE Transformers- Quality Inspection Requirements
 - Re Gt. Gall Project - USE Transformers- Quality Inspection Requirements3
 - Re Impulse test results on 3010 kVA and 1250 kVA transformers
 - RE: Summary of Test Report Documentation Needed
 - Reviewing site power factor test results against factory power factor test results.
 - test report 1250 KVA
 - test report 3010 kva
 - Testing reports
 - UPDATE 3010KVA
- Carolina
 - FW: [EXTERNAL]Energy Vault Field Service
 - FW: [EXTERNAL]FW: Reporte de Energy Vault
 - FW: Testing reports
 - RE_ _EXTERNAL_Aborted FAT Follow up and Path Forward
 - RE: [EXTERNAL]Energy Vault Field Service
 - RE_ _EXTERNAL_Energy Vault Field Service
 - RE_ TEST REPORT 3010KVA
 - RE: Testing reports
 - Re_ USE_Energy Vault - Daily Check-in (6)
 - Re_ USE_Energy Vault - Daily Check-in (7)
 - Reporte Energy Vault
 - Testing reports
- David
 - RE: [EXTERNAL]RV: test report 3010kva
 - Re: Impulse test results on 3010 kVA and 1250 kVA transformers
 - Re_ USE_Energy Vault - Daily Check-in (25)
- Nancy
 - FW: [EXTERNAL]FW: Reporte de Energy Vault
 - Fwd: Transformer 176 findings
 - impulso 2500 ALFA rev.

- Informe de las unidades de Energy Vault
- Re EXTERNAL Energy Vault Field Service.3
- RE Reporte USE Fortstockton TX
- RE TEST REPORT 3010KVA
- Re USE Energy Vault - Daily Check-in
- RV Meeting Re Schedule
- RV: test report 6 units last
- test report 3010 kva.1
- TEST REPORT 3010 KVA
- TEST REPORT 3010KVA
- TEST REPORT UNIDADES 13 Y 14 ENERGY VAULT
- unidades de 3010kva de Energy Vault
- USE Quality Report

5. DOCUMENT REQUEST NO. 5:

All Documents and Communications within USE or between USE and any Third Party regarding the electrification testing of the Transaction Transformers.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

“Third Party” is capitalized but is not defined, and is therefore vague and ambiguous.

RESPONSE:

- Bernardo
 - FAT- Winding Resistance
 - Re: EV Updated Schedule / Notes from 8/16 Meeting
 - RE: EV Updated Schedule / Notes from 8/16 Meeting
 - RE: [EXTERNAL]RE: Transformer Testing

6. DOCUMENT REQUEST NO. 6:

All Documents and Communications regarding testing or inspection of the Transaction Transformers that was performed prior to the shipping and delivery of the Transaction Transformers.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

RESPONSE:

- Bernardo
 - FW: [EXTERNAL]Aborted FAT Follow up and Path Forward
 - RE: EV Updated Schedule / Notes from 8/16 Meeting
 - RE: [EXTERNAL]Aborted FAT Follow up and Path Forward
 - RE: [EXTERNAL]Testing Status
 - RE: Plan and Logistics for Testing
 - RE: [EXTERNAL]FW: EVS Jupiter Gall FAT Schedule
- Carolina
 - Re: FAT for 3010 kVA and 1250 kVA
 - RE: Testing reports

7. DOCUMENT REQUEST NO. 7:

All Documents and Communications regarding factory acceptance tests for the Transaction Transformers that were performed prior to the shipping and delivery of the Transaction Transformers.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

RESPONSE:

- Bernardo
 - Fwd: USE/Energy Vault - Daily Check-in
 - RE: [EXTERNAL]St Gall Transformer Shipping Schedule and Testing Status
- Carolina
 - Re: FAT for 3010 kVA and 1250 kVA

8. DOCUMENT REQUEST NO. 8:

All Documents and Communications regarding the functionality and/or availability of appropriate equipment to perform testing and/or inspection of the Transaction Transformers.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

RESPONSE:

- Bernardo
 - RE: EV/USE Touch Point
 - Re_ _EXTERNAL_Energy Vault Field Service (4)
- Carolina
 - RE: Bushing Connection for Impulse Voltage Test

9. DOCUMENT REQUEST NO. 9:

All Communications within USE or between USE and any Third Party regarding how the Transaction Transformers failed to meet relevant standards or specifications or how Energy Vault should fix or repair the Transaction Transformers.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

“Third Party” is capitalized but is not defined, and is therefore vague and ambiguous.

RESPONSE:

- Bernardo
 - FW: Energy Vault communication to USE - Nov 1st 2023
 - Fwd: USE/Energy Vault - Daily Check-in
 - RE: Energy Vault transformer testing and repair at St Gall
 - RE: EV Updated Schedule / Meeting Notes
 - RE: EV Updated Schedule / Notes from 8/17 Meeting
 - RE: EV/USE Touch Point
 - RE: [EXTERNAL]Energy Vault Corrective Action / Wire Markers
 - RE: [EXTERNAL]RE: USE XFRM Quality Issues
 - RE EXTERNALRE USE XFRM Quality Issues 2
 - Re Gt. Gall Project - USE Transformers- Quality Inspection Requirements3

- Re Impulse test results on 3010 kVA and 1250 kVA transformers
 - Re: United Standard Electric payments
 - RE: USE/Energy Vault - Daily Check-in
 - St. Gall Project - Transformers Leak - Weld Repair Plan and Weld Repair Procedure.
 - United Standard Electric payments
 - USE Quality Report
 - USE XFRM Quality Issues
- Carolina
 - FW: [EXTERNAL]FW: Reporte de Energy Vault
 - RE_ _EXTERNAL_ Aborted FAT Follow up and Path Forward
 - RE: [EXTERNAL]RE: Leak repair on site
 - Transformer #179 rework
- David
 - Energy Vault communication to USE - Nov 1st 2023
 - RE_ EV_USE Touch Point (35)
 - RE_ USE_Energy Vault - Daily Check-in (30)
- Nancy
 - St. Gall Project - Transformers Leak - Weld Repair Plan and Weld Repair Procedure.

10. DOCUMENT REQUEST NO. 10:

All Documents and Communications within USE or between USE and any Third Party regarding the oil leaking from the Transaction Transformers after delivery.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

“Third Party” is capitalized but is not defined, and is therefore vague and ambiguous.

RESPONSE:

- Bernardo
 - RE: EV/USE Touch Point
 - RE: EV/USE Touch Point
 - RE: St-Gall Transformer #146 Pics 002
 - Re: United Standard Electric payments
 - St. Gall Project - Transformers Leak - Weld Repair Plan and Weld Repair Procedure.
- Carolina

- FW: [EXTERNAL]Energy Vault Field Service
 - FW: St-Gall Transformer #146 Pics 001
 - FW: St-Gall Transformer #146 Pics 002
 - FW: Transformer Leaks
 - RE: [EXTERNAL]RE: Leak repair on site
- Nancy
 - FW: Transformer Leaks

11. DOCUMENT REQUEST NO. 11:

All Documents and Communications within USE or between USE and any Third Party regarding the failure of the Transaction Transformers to electrify after delivery.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

“Third Party” is capitalized but is not defined, and is therefore vague and ambiguous.

RESPONSE:

- Bernardo
 - FW: Energy Vault communication to USE - Nov 1st 2023

12. DOCUMENT REQUEST NO. 12:

All Documents supporting, refuting, or relating to an assertion USE made in response to Energy Vault’s Interrogatory No. 1 that USE objected to a term contained within the Purchase Order.

OBJECTIONS:

Attorney-client privilege and litigation work product. USE incorporates by reference its Objections to Plaintiff’s Interrogatories.

RESPONSE:

- Bernardo
 - Re: United Standard Electric payments

- ACK - COT2201576R4 updated 112922
- ACK - COT2201576R4
- COT2201576R4 3MVA EV PADS LGE
- Energy Vault FAT Warranty Letter
- Interrogatory 1
- Purchase Order_PO000778-corrected after the fact
- Purchase Order_PO000778
- United Sales Conditions (3 year) 2022
- USE SALES TERMS WARRANTY 2022
- USETC001.W34 - USE_Conditions_Extended_Warranty

13. DOCUMENT REQUEST NO. 13:

All Documents supporting, refuting, or relating to an assertion USE made in response to Energy Vault's Interrogatory No. 2 that any Transaction Transformer met the specifications contained within the Purchase Order.

OBJECTIONS:

Attorney-client privilege and litigation work product. USE incorporates by reference its Objections to Plaintiff's Interrogatories. Calls for disclosure of CBI.

RESPONSE:

- Bernardo
 - Re: United Standard Electric payments
- Nancy
 - FW: [EXTERNAL]USE INVOICES
 - Proposed EV Letter
 - USE_Correspondence_-_11012023

14. DOCUMENT REQUEST NO. 14:

All documents supporting, refuting, or relating to an assertion USE made in response to Energy Vault's Interrogatory No. 3 that any Transaction Transformer met the contract specifications, industry standard, and was fit for its intended purpose.

OBJECTIONS:

Attorney-client privilege and litigation work product. USE incorporates by reference its Objections to Plaintiff's Interrogatories. Calls for disclosure of CBI.

RESPONSE:

- Bernardo
 - Re: United Standard Electric payments
- David
 - RE_ USE_Energy Vault - Daily Check-in (29)
 - RE_ USE_Energy Vault - Daily Check-in (31)
- Nancy
 - FW: [EXTERNAL]USE INVOICES
 - Proposed EV Letter
 - RE PLEASE COMMENTAPPROVE
 - RE USE Follow-up meeting
 - USE_Correspondence_-_11012023

15. DOCUMENT REQUEST NO. 15:

All Documents and Communications related to other instances of customers claiming a transformer was defective or required repair from 2021 to present as described in Interrogatory No. 8.

OBJECTIONS:

Attorney-client privilege and litigation work product. USE incorporates by reference its Objections to Plaintiff's Interrogatories. Calls for disclosure of CBI.

Irrelevant, overly broad, unduly burdensome.

RESPONSES:

(Waiting for additional input from client)

16. DOCUMENT REQUEST NO. 16:

All contracts and work orders for work performed by subcontractors or non-USE personnel on the Transaction Transformers as described in response to Interrogatory No. 10.

OBJECTIONS:

Attorney-client privilege and litigation work product. USE incorporates by reference its Objections to Plaintiff's Interrogatories. Calls for disclosure of CBI.

Irrelevant, overly broad, unduly burdensome.

RESPONSE:

- Bernardo
 - Reviewing site power factor test results against factory power factor test results.

17. DOCUMENT REQUEST NO. 17:

All Documents and Communications referenced and/or discussed within any of USE's responses to Energy Vault's interrogatories.

OBJECTIONS:

Attorney-client privilege and litigation work product. USE incorporates by reference its Objections to Plaintiff's Interrogatories. Calls for disclosure of CBI.

Irrelevant, overly broad, unduly burdensome.

RESPONSE:

(Waiting for additional input from client)

18. DOCUMENT REQUEST NO. 18:

All Documents and Communications supporting, refuting, or relating to any of USE's defenses to Energy Vault's claims.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

Irrelevant, overly broad, unduly burdensome. Excessive in number, compound and multi-farious.

RESPONSE:

(Waiting for additional input from client)

19. DOCUMENT REQUEST NO. 19:

All Documents and Communications supporting, refuting, or relating to any of USE's claims against Energy Vault.

OBJECTIONS:

Attorney-client privilege and litigation work product. Calls for disclosure of CBI.

Irrelevant, overly broad, unduly burdensome. Excessive in number, compound and multi-farious.

RESPONSE:

(Waiting for additional input from client)

Respectfully Submitted This 24th Day of May, 2024:

UNITED STANDARD ELECTRIC, LLC

By: /s/ Denis Dennis
Counsel

Denis Dennis (Texas Bar No. 05655566)
Kelly, Morgan, Dennis,
Corzine & Hansen, P.C.
4840 E. University Blvd., Suite 200 (79762)
P.O. Box 1311
Odessa, Texas 79760-1311
432-367-7271
432-363-9121 fax
ddennis@kmdfirm.com
Local Counsel for Defendant United Standard Electric, LLC

By: /s/ Michael C. Whitticar
Counsel

Michael C. Whitticar (V.S.B. No. 32968)
NOVA IP Law, PLLC
155 Broadview Avenue, Suite 200
Warrenton, VA 20186
Phone: (571) 386-2980
Fax: (855) 295-0740
Email: mikew@novaiplaw.com
Virginia Counsel for Defendant United Standard Electric, LLC
Pro Hac Vice Planned

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May 2024, the foregoing Defendant United Standard Electric, LLC, Objections and Responses to Plaintiff's First Set of Requests for Production was sent by first-class mail, properly addressed and postage prepaid, to:

Ahmad, Zavitsanos & Mensing, PLLC

Todd Mensing, attorney-in-charge

Texas State Bar No. 24013156

Alexander M. Dvorscak

Texas State Bar No. 24120461

1221 McKinney Street, Suite 2500

Houston, Texas 77010

Telephone: (713) 655-1101

Facsimile: (713) 655-0062

tmensing@azalaw.com

advorscak@azalaw.com

Counsel for Plaintiff Energy Vault, Inc.

/s/ Denis Dennis
Denis Dennis